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Advanced Micro Devices, Inc., Claim No. 5126

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re

DELPHI CORPORATION, et al.,

Debtor(s).

Chapter 11

Case No. 05-44481 (RDD)  
(Jointly Administered)

**RESPONSE OF SPANSION LLC, ASSIGNEE OF THE CLAIM OF ADVANCED  
MICRO DEVICES, INC. (CLAIM NO. 5126), TO DEBTORS' THIRTEENTH OMNIBUS  
OBJECTION (SUBSTANTIVE) PURSUANT TO 11 U.S.C. § 502(b) AND FED. R.  
BANKR. P. 3007 TO CERTAIN (A) INSUFFICIENTLY DOCUMENTED CLAIMS, (B)  
CLAIMS NOT REFLECTED ON DEBTORS' BOOKS AND RECORDS, (C)  
PROTECTIVE INSURANCE CLAIMS, (D) INSURANCE CLAIMS NOT REFLECTED  
ON DEBTORS' BOOKS AND RECORDS, (E) UNTIMELY CLAIMS AND UNTIMELY  
TAX CLAIMS, AND (F) CLAIMS SUBJECT TO MODIFICATION, TAX CLAIMS  
SUBJECT TO MODIFICATION, AND CLAIMS SUBJECT TO MODIFICATION AND  
RECLAMATION AGREEMENT ("THIRTEENTH OMNIBUS OBJECTION")**

Spansion LLC ("Spansion"), Assignee of the Claim of Advanced Micro Devices Inc.  
("AMD") (Claim No. 5126 (the "Claim")), by and through its undersigned counsel, hereby  
submits this Response to the Thirteenth Omnibus Objection (the "Response"). This Response is  
submitted pursuant to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules

for the Southern District of New York and the Order of the Court dated December 7, 2006 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections to Claims, Case No. 05-44481, Docket No. 6089.

### **BACKGROUND**

On October 8, 2005 (the "Petition Date"), debtor Delphi Automotive Systems LLC (the "Debtor") filed for protection under chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"), Case No. 05-44640-RDD (the "Bankruptcy Case").<sup>1</sup>

On January 20, 2006, the Debtor filed its Schedule of Assets and Liabilities which listed AMD on Schedule "F" as a general unsecured creditor of the Debtor in the amount of \$2,225,112.36.<sup>2</sup>

On May 8, 2006, with the assistance of Spansion, AMD filed a Proof of Claim in the Bankruptcy Case in the amount of \$2,387,697.06. Pursuant to an agreement between Spansion and AMD, the Claim was assigned to Spansion in December 2006.

On April 27, 2007, the Debtor filed the Thirteenth Omnibus Objection, Case No. 05-44481, Docket No. 7825. In the Thirteenth Omnibus Objection, the Debtor seeks to modify AMD's Claim from \$2,387,697.06 to \$2,232,151.00, a difference of \$155,546.06.

### **RESPONSE TO OBJECTION TO CLAIM**

AMD is a global supplier of integrated circuits for personal and networked computing and communications. Leading up to and including the Petition Date, AMD supplied the Debtor with various Spansion<sup>®</sup> Flash memory devices for use in its electronic product lines. As of the Petition Date, the Debtor owed AMD approximately \$2,377,810 for products supplied by AMD. A true and correct copy of invoices which were unpaid as of the Petition Date were either attached to the Proof of Claim filed on May 8, 2006 or are attached hereto as **Exhibit "A."** In addition to the outstanding invoiced amounts, the terms and conditions of sale between the

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<sup>1</sup> On October 8, 2005, the Court issued an Order directing that the Bankruptcy Case be jointly administered with the Chapter 11 cases of certain affiliated debtors (the "Affiliated Debtors") as Case No. 05-44481.

<sup>2</sup> AMD Claim is scheduled as "disputed" and "unliquidated," although Spansion contends the Claim amount is liquidated.

parties expressly provided that all past due amounts would incur interest charges at the rate of eighteen percent (18%) per annum or the maximum rate allowed by law until paid. As of the Petition Date, the accrued interest on past due amounts totaled \$9,887.06.

In light of the foregoing and the attached documentation, Spansion disputes the relief sought by the Debtor in the Thirteenth Omnibus Objection with respect to modification of the amount of AMD's Claim and respectfully requests that the Court enter an Order:

1. Denying the Thirteenth Omnibus Objection with respect to the Claim;
2. Allowing the Claim in the amount of \$2,387,697.06;
3. Directing that Spansion be paid post-petition interest on the Claim if Debtor turns out to be solvent and such amount is available to be paid from the Debtor's estate; and
4. Granting such other and further relief as is necessary and just.

Dated: June 19, 2007  
New York, New York

Respectfully Submitted,

BAKER & McKENZIE LLP

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Attorneys for Spansion LLC, Assignee of the Claim  
of Advanced Micro Devices, Inc. (Claim No. 5126)

EXHIBIT A

ADVANCED MICRO DEVICES, INC.  
PO Box 3453  
Sunnyvale CA 94088

Phone: 1-800-538 8450

# INVOICE

#90206471

**Bill-To Address** #126  
DELPHI DELCO ELECTRONICS  
ATTN:ACCOUNTS PAYABLE  
P.O. BOX 9005  
MAIL STA A241  
KOKOMO IN 46904

**Ship-To Address** #100236  
DELPHI D DELNOSA (DA31)  
601 JOAQUIN CAVAZOS  
PLANT 5-6  
LOS INDIOS TX 78567

**Information**  
Invoice Date/  
Date of Supply April 13, 2005  
Purchase Order 450097601  
Sales Order No. 30041705  
Sales Order Date 03/25/2005  
Waybill No. / Date  
Salesperson SCHILLINGER, DES  
Customer Buyer  
Sales Contract No.  
Letter of Credit  
Shipping Number 80579732  
Shipping Date 04/13/2005  
Shipping Terms Factory  
Payment Terms Net Due 30 Days

Invoice Details				
Pos	Part Number	Quantity	Price per Unit(s)	Net Amount
0030	09398129 A Customer part#: 09398129 A (Product Line NVD)	2,000 EA	2.45 USD Per 1 Unit	4,900.00 USD
"THESE COMMODITIES, TECHNOLOGY AND/OR SOFTWARE WERE EXPORTED IN ACCORDANCE WITH REGULATORY REQUIREMENTS. DIVERSION CONTRARY TO U.S. LAW STRICTLY PROHIBITED."				
Subtotal				4,900.00 USD
Tax @ 0.000 %				0.00 USD
Free of freight charges				
TOTAL AMOUNT DUE				4,900.00 USD

"We hereby certify these goods were produced in compliance with all applicable requirements of 29 U.S.C. Sections 206, 207 and 212 as amended and of regulations and order of the United States Department of Labor issued under 29 U.S.C. Section 214 thereof."

PLEASE PAY FROM THIS INVOICE  
AS NO OTHER STATEMENT WILL  
BE RENDERED.

**Note:**

75 LBS AND UNDER: BAX 2ND DAY AIR (NO ACCT# NEEDED FOR 2ND DAY AIR)  
OVER 75 LBS: PRO TRAN TRUCKING COMPANY PHONE: 888-744-7669  
FOR SHIP TO #020, PLS SHIP PREAPID CIP(C&F CUSTOMER) VIA MENLO 2ND DAY.

**Please Remit To:**  
ADVANCED MICRO DEVICES INC  
BOFA LOCKBOX# 9543  
P.O. BOX 60000  
SAN FRANCISCO  
CA 94160  
US AMD01

No Product Returns Will Be Accepted Without Prior Spansion Authorization. Claims Of Errors Or Shortages Must Be Filed In Writing with Spansion within 30 Days of Receipt of Product.

**ADVANCED MICRO DEVICES, INC.**  
**TERMS AND CONDITIONS OF SALES**

**GENERAL** - THE TERMS AND CONDITIONS OF SALE CONTAINED HEREIN APPLY TO ALL QUOTATIONS MADE AND SUPPLY OF PRODUCT BY SELLER. THE TERMS AND CONDITIONS CONTAINED HEREIN MAY IN CERTAIN INSTANCES CONFLICT WITH THE TERMS AND CONDITIONS AFFIXED TO THE BUYER'S FORM, ORDER BLANK OR PURCHASE ORDER AND/OR AS SPECIFIED BY BUYER. TERMS AND CONDITIONS PREPRINTED ON BUYER'S FORM, ORDER BLANK OR PURCHASE ORDER, AND OTHER TERMS AND CONDITIONS SPECIFIED BY BUYER, TO THE EXTENT THEY CONFLICT WITH THE TERMS AND CONDITIONS HEREIN, SHALL BE NULL AND VOID. ACCEPTANCE OF BUYER'S OFFER IS EXPRESSLY MADE CONDITIONAL ON BUYER'S ASSENT TO THE TERMS AND CONDITIONS CONTAINED HEREIN, WHICH TERMS AND CONDITIONS SHALL GOVERN. BUYER MAY ASSENT BY WRITTEN ACKNOWLEDGMENT, IMPLICATION, OR BY ACCEPTANCE OF OR PAYMENT FOR PRODUCTS ORDERED HEREUNDER. ANY ONE OF WHICH SHALL CONCLUSIVELY BE DEEMED TO CONSTITUTE ASSENT UNLESS BUYER GIVES WRITTEN NOTICE OF OBJECTION TO SELLER PROMPTLY UPON RECEIPT OF THIS ACCEPTANCE. SELLER'S FAILURE TO OBJECT TO PROVISIONS CONTAINED IN ANY COMMUNICATION FROM BUYER SHALL NOT BE DEEMED A WAIVER OF THE PROVISIONS OF THIS ACCEPTANCE. ANY CHANGES IN THE TERMS AND CONDITIONS OF SALE CONTAINED HEREIN MUST BE SPECIFICALLY AGREED TO IN WRITING BY AN OFFICER OF SELLER BEFORE BECOMING BINDING ON EITHER SELLER OR BUYER. IF THIS ORDER IS ALSO COVERED BY ANOTHER WRITTEN CONTRACT SIGNED BY BOTH SELLER AND BUYER, THEN THE TERMS AND CONDITIONS SET FORTH HEREIN APPLY TO THE EXTENT THAT THEY ARE NOT IN CONFLICT WITH SUCH OTHER WRITTEN CONTRACT.

**ORDERS** - All orders or contracts must be approved and accepted by Seller at its headquarters. These terms and conditions of sale shall be applicable whether or not they are attached to or enclosed with the products to be sold or sold hereunder, and these terms and conditions shall be applicable to any subsequent modifications to orders sold hereunder.

**PRICES** - Seller may make a general price reduction or increase with respect to products sold hereunder. Seller's pricing information is confidential and shall be treated with the same degree of confidentiality and care with which Buyer treats its own confidential information.

**TAXES** - Unless otherwise specifically provided herein, the amount of any present or future sales and use taxes, stamp taxes, value added taxes, property taxes and other taxes including withholding taxes or duties imposed by any taxing authority on or with respect to the products covered by this order or the manufacture or sale thereof, shall be added to the purchase price and shall be paid by Buyer or, in lieu thereof, Buyer shall provide Seller with a tax exemption certificate acceptable to the taxing authorities. Buyer shall hold harmless and indemnify Seller for all taxes, interests, penalties, duties or such other charges or fees incurred or arising out of the use of such certificates.

**PAYMENT** - Each shipment shall be considered a separate and independent transaction, and payment therefor shall be made accordingly. Payment terms are cash-in-advance or if Buyer receives credit approval from Seller, all invoices are due and payable thirty (30) days from the date of invoice. Invoices that are past due will be subject to late charges at 18% per annum or the maximum rate allowable by law, whichever is less. No discounts are authorized. If, in the judgment of Seller, the financial condition of Buyer at any time does not justify continuation of production or shipment under the terms of payment originally specified, Seller may require full or partial payment in advance. In the event of the bankruptcy or insolvency of Buyer, or in the event any proceeding is brought by or against Buyer under bankruptcy or insolvency laws, Seller shall be entitled to cancel any order then outstanding and Buyer shall reimburse Seller for any associated cancellation charges and lost profits.

**TRANSPORTATION** - Unless otherwise agreed to by Seller, all orders are made Ex Works Seller's or its subcontractor's factory distribution point, freight collect (as defined in Incoterms 2000 published by the International Chamber of Commerce). If Buyer does not provide specific shipping instructions, Seller will exercise its own discretion in selecting a freight carrier on behalf of Buyer, the carrier acting as Buyer's agent.

**TITLE** - Title, risk of loss and right of possession passes to Buyer at Seller's factory distribution point, or, if applicable, Seller's subcontractor factory distribution point.

**FORCE MAJEURE** - In no event will Seller be liable for delay or non-delivery due to causes beyond its reasonable control, including, but not limited to, acts of God, acts of civil or military authority, priorities, fires, floods, earthquakes, other natural disasters, strikes, lockouts, slowdowns, factory or labor conditions, errors in manufacture and inability to obtain necessary labor, materials or manufacturing facilities. In the event of any such delay, the date of delivery shall, at the request of Seller, be deferred for a period equal to the time lost by reason of the delay.

**DELIVERY** - Delivery dates are approximate and Seller shall not be responsible for any claimed damages resulting from late deliveries. Buyer's sole remedy for Seller's delay in delivery or failure to deliver for any reason whatsoever is to cancel the order, and Seller will refund to Buyer any portion of the purchase price prepaid by Buyer for the product. IN NO EVENT SHALL SELLER BE LIABLE FOR INCREASED MANUFACTURING, DOWNTIME AND REWORK COSTS, DAMAGES RELATING TO BUYER'S PROCUREMENT OF SUBSTITUTE PRODUCT (i.e., "COST OF COVER"), LOSS OF PROFITS, REVENUES OR GOODWILL, OR ANY OTHER INDIRECT, INCIDENTAL, SPECIAL, RELIANCE OR CONSEQUENTIAL DAMAGES. In the event of product shortages for any reason whatsoever, Seller may allocate product among its customers.

**INSPECTION/ACCEPTANCE** - All products purchased hereunder are subject to Buyer's incoming inspection prior to final acceptance. Failure to notify Seller of any nonconforming shipment, including but not limited to notification with respect to shortages, incorrect parts or other inconsistencies between the shipment and the enclosed packing list or invoice within thirty (30) days shall be deemed an unqualified acceptance of such shipment.

**CANCELLATION/RESCHEDULING** - Buyer or Seller may cancel or reschedule any order for standard products if such request is received by the other party at least thirty (30) days in advance of Buyer's original requested delivery date. Notification of cancellation or rescheduling of nonstandard or specially processed products must be received by Buyer or Seller at least ninety (90) days in advance of the Buyer's original requested delivery date.

**PATENTS** - Buyer shall hold Seller harmless against any expense or loss resulting from infringement of any patents, trade secret, copyright or other proprietary rights arising from compliance with Buyer's designs, specifications or instructions. Buyer also agrees to defend and hold Seller harmless from and against any claim of infringement of any patents, trade secret, copyright or other proprietary rights arising from the combination, bundling or inclusion of Seller's Product into Buyer's product. Buyer shall pay all damages, expenses and costs awarded in any such proceedings or actions against Seller.

Except as otherwise provided in the preceding paragraph, Seller shall defend any suit or legal proceeding brought against Buyer so far as based on a claim that any product, or any part thereof, manufactured by Seller and furnished hereunder constitutes an infringement of any patent of the United States. Seller must be notified promptly in writing of any inalter giving rise to a possible claim under this section, and the extent such damages or costs are attributable primarily to the products. If said product, or any part thereof, is held to constitute an infringement of such suit, and the making, use and/or sale of said product or part is enjoined, or said suit is settled on the basis of an undertaking to terminate such making, use and/or sale of said product as is alleged to constitute an infringement, Seller shall, at its own expense and at its sole option, either procure for Buyer the right to continue using said product or part, send non-infringing replacement product, modify said product so that it becomes non-infringing, or refund the purchase price (or its customers') for which the product or part was not damaged. Seller shall not be liable to Buyer under any provision of this section if any patent infringement proceeding or claim is based upon: (i) a use by Buyer (or its customers') in good faith, if such infringement would not have occurred based on an unaltered or non-combined product, or (ii) actions by Buyer in violation of these terms and conditions of sale. The foregoing states the sole and exclusive remedy of Buyer and the entire liability of Seller for infringement of patent rights by the said products or any part thereof.

The sale of products by Seller does not convey any license, warranty, or indemnity protection, by implication, estoppel, or otherwise, under patent claims covering combinations of said products with other devices or elements, or the process or method of making such products.

**WARRANTY** - Except as otherwise provided in the following paragraph, Seller warrants assembled devices of its manufacture against defective materials or workmanship for a period of one (1) year from date of shipment. Seller further warrants that assembled devices of its manufacture will conform to Seller's data sheet specifications.

Seller warrants un packaged devices of its manufacture against defective materials or workmanship for a period of ninety (90) days from date of shipment. This warranty for the sales does not extend to die which have been affixed onto a board or substrate of any kind. Buyer acknowledges that electrical testing of such die is limited to DC testing at 25 degrees C unless otherwise specified. As such, data sheet specifications for packaged and tested products do not apply to the sales and are not guaranteed by Seller unless otherwise specified. Buyer assumes all responsibility for successful die prep, die attach and wire bonding processes. Due to the unprotected nature of Seller's die-level products, Seller assumes no responsibility for environmental effects on die.

This warranty does not extend beyond the first purchaser of said assembled devices and/or un packaged die (collectively "products"). The liability of Seller under this warranty is limited, at Seller's option, solely to repair the product, to send replacement product, or to make an appropriate credit adjustment or refund in an amount not to exceed the original purchase price actually paid for the products returned to Seller, provided that (a) Seller is promptly notified in writing by Buyer during the applicable warranty period of any defect or nonconformance in the product, (b) Buyer obtains authorization from Seller to return the defective product, (c) the defective product is returned to Seller in accordance with Seller's shipping instructions set forth below, and (d) Seller's examination of such product discloses to its satisfaction that any defect or nonconformance actually existed and was not caused by improper use or operation outside of the data sheet specifications for the product, abuse, negligence, improper installation, accident, loss or damage in transit, or unauthorized repair or alteration by a person other than Seller. Buyer shall ship such defective product to Seller via Seller's carrier, collect. Risk of loss will transfer to Seller when the defective product is provided to Seller's carrier. If Buyer fails to adhere to these warranty return guidelines or if product returned to Seller is excluded by terms herein from warranty redemption, Buyer shall assume all risk of loss and shall pay for all freight to Seller's specified location. This warranty shall not apply to any products that have been repaired or altered, except those from which have been repaired or altered by Seller. The aforementioned provisions do not extend the original warranty period of any product that has either been repaired or replaced by Seller.

THIS WARRANTY IS EXPRESSED IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, THE IMPLIED WARRANTY AGAINST THIRD PARTY INFRINGEMENT, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON SELLER'S PART. AND IT NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR SELLER ANY OTHER LIABILITIES. THE FOREGOING CONSTITUTES BUYER'S SOLE AND EXCLUSIVE REMEDY FOR THE FURNISHING OF DEFECTIVE OR NONCONFORMING PRODUCTS AND SELLER SHALL NOT IN ANY EVENT BE LIABLE FOR INCREASED MANUFACTURING, DOWNTIME, AND REWORK COSTS, DAMAGES RELATING TO BUYER'S PROCUREMENT OF SUBSTITUTE PRODUCT (i.e., "COST OF COVER"), LOSS OF PROFITS, REVENUES OR GOODWILL, RELIANCE DAMAGES, LOSS OF USE OR OF DAMAGE TO ANY ASSOCIATED EQUIPMENT, OR ANY OTHER INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES BY REASON OF THE FACT THAT SUCH PRODUCTS SHALL HAVE BEEN DETERMINED TO BE DEFECTIVE OR NONCONFORMING.

**PRODUCT SAFETY** - Seller's products are not designed, intended, authorized or warranted for use as components in systems intended for surgical implant into the body, or in other applications intended to support or sustain life, or in any other application in which the failure of Seller's product could create a situation where personal injury, death, or severe property or environmental damage may occur. Should Buyer purchase or use Seller's products for any such unintended or unauthorized application, Buyer shall defend, indemnify and hold Seller and its officers, employees, subsidiaries, affiliates, and distributors, and agents harmless against all claims, costs, damages, expenses, losses, liabilities (or actions or proceedings therefor) including reasonable attorneys' fees based on, arising out of or related to, directly or indirectly, any claim for such damage associated with such unintended or unauthorized use, even if such claim alleges that Seller was negligent regarding the design or manufacture of the product.

**EXCLUSIVE REMEDIES** - THE REMEDIES PROVIDED HEREIN ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES. EXCEPT AS EXPRESSLY PROVIDED HEREIN AND EXCEPT FOR DAMAGES FOR BODILY INJURY, SELLER SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, RELIANCE CONSEQUENTIAL (INCLUDING REWORK COSTS), COST OF COVER AND/OR PUNITIVE, OR EXEMPLARY DAMAGES, WHETHER ANY DAMAGES ARE BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT SELLER HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

**LIMITATION OF LIABILITY** - TO THE EXTENT THAT SELLER MAY BE HELD LEGALLY LIABLE TO BUYER BY A COURT OF COMPETENT JURISDICTION UNDER CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, SELLER'S MAXIMUM AGGREGATE LIABILITY SHALL NOT EXCEED THE APPLICABLE PURCHASE PRICE OF THE SPECIFIC PRODUCTS THAT CAUSED THE DAMAGES OR THAT ARE THE SUBJECT MATTER OF, OR ARE DIRECTLY RELATED TO, THE CAUSE OF ACTION. BUYER AND SELLER ACKNOWLEDGE THAT THESE LIMITATIONS ON POTENTIAL LIABILITIES WERE AN ESSENTIAL ELEMENT IN SETTING CONSIDERATION HEREIN.

**ASSIGNMENT** - Buyer shall not assign its order, any interest therein, or any rights thereunder without the prior written consent of Seller.

**ELECTRONIC DATA INTERCHANGE ("EDI")** - Transactions conducted between Buyer and Seller through EDI, or other electronic methods, shall be in accordance with the terms and conditions of sale contained herein.

**WAIVER** - The failure of Seller to enforce at any time or for any period of time the terms and conditions set forth herein shall not be construed to be a waiver of such provision or the right thereafter to enforce each and every provision herein.

**APPLICABLE LAW/FORUM** - Disputes arising in connection with these terms and conditions of sale shall be governed by, and construed, enforced and interpreted in accordance with, the internal substantive laws of the State of California applicable to agreements to be made and to be performed solely within such state, without giving effect to any conflicts or choice of laws principles which otherwise might be applicable, and excluding the United Nations Convention on Contracts for the Sale of Goods. No action shall lie for a violation, breach or other dispute of, or in any way arising out of or associated with, these terms and conditions of sale or products sold by Seller unless such action is brought before the appropriate court within the jurisdiction of the courts of Santa Clara County, California, or the United States Court for the Northern District of California.

**COMPLIANCE WITH LAWS** - Buyer and Seller agree that they shall comply with the laws, regulations, and administrative rules of all jurisdictions that are applicable to the transactions contemplated herein. Without limitation of the foregoing, Buyer represents itself to be knowledgeable as to the laws, regulations and requirements regarding the export of products, whether tangible or intangible, from the United States of America and the re-export of such products once outside the United States of America, and agrees to conduct its activities in accordance therewith. Seller may suspend performance if Buyer is in violation of applicable export regulations.

**SEVERABILITY** - If any of the terms or provisions set forth herein are declared to be invalid or unenforceable for any reason, the remaining terms and provisions shall remain in full force and effect. Without limitation of the foregoing, in the event that any limitation on direct damages is held to be invalid or unenforceable, Seller shall nevertheless not be liable for any indirect, incidental, special, reliance, consequential, punitive or exemplary damages.

**ENTIRE AGREEMENT** - These Terms and Conditions of Sale constitute the entire agreement between Buyer and Seller and supersede any previous communications, representations or agreements between Buyer and Seller, whether oral or written, regarding transactions hereunder.

AMD Statement of Account Delphi Automotive Systems, LLC #126						Late Charge Annual Rate		18%
Invoice #	Reference	Inv Date	Amount Open	Due Date	SBI#	Days of Late	Interest Charge	
#126								
Unauthorized Line Down Charge	Case # 20041014-14285561	12/01/2004	60,544.00	12/01/2004		312	9,315.48	
90206471	1553	04/13/2005	4,900.00	05/13/2005		84	202.98	
90328858	1553	09/01/2005	12,350.00	10/01/2005	1002006	7	42.63	
90328861	1553	09/01/2005	7,267.50	10/01/2005	1002007	7	25.09	
90328864	1553	09/01/2005	10,200.00	10/01/2005	1002008	7	35.21	
90328862	1553	09/01/2005	4,845.00	10/01/2005	1002018	7	16.73	
90330699	1553	09/02/2005	950.00	10/02/2005	1002027	6	2.81	
90330701	1553	09/02/2005	2,422.50	10/02/2005	1002029	6	7.17	
90330702	1553	09/02/2005	14,100.00	10/02/2005	1002030	6	41.72	
90332930	1553	09/06/2005	1,600.00	10/06/2005	1002033	2	1.58	
90332934	1553	09/06/2005	9,690.00	10/06/2005	1002034	2	9.56	
90332927	1553	09/06/2005	950.00	10/06/2005	1002035	2	0.94	
90332928	1553	09/06/2005	2,350.00	10/06/2005	1002036	2	2.32	
90332936	1553	09/06/2005	38,700.00	10/06/2005	1002037	2	38.17	
90332935	1553	09/06/2005	11,750.00	10/06/2005	1002038	2	11.59	
90332938	1553	09/06/2005	37,600.00	10/06/2005	1002039	2	37.08	
90332937	1553	09/06/2005	11,850.00	10/06/2005	1002040	2	11.69	
90332929	1553	09/06/2005	950.00	10/06/2005	1002041	2	0.94	
90332931	1553	09/06/2005	21,930.00	10/06/2005	1002042	2	21.63	
90332932	1553	09/06/2005	4,845.00	10/06/2005	1002043	2	4.78	
90332933	1553	09/06/2005	18,800.00	10/06/2005	1002044	2	18.54	
90333813	1553	09/07/2005	950.00	10/07/2005	1001996	1	0.47	
90333814	1553	09/07/2005	12,350.00	10/07/2005	1002048	1	6.09	
90333821	1553	09/07/2005	4,845.00	10/07/2005	1002049	1	2.39	
90333815	1553	09/07/2005	3,800.00	10/07/2005	1002050	1	1.87	
90333816	1553	09/07/2005	2,350.00	10/07/2005	1002051	1	1.16	
90333823	1553	09/07/2005	17,200.00	10/07/2005	1002052	1	8.48	
90333822	1553	09/07/2005	4,700.00	10/07/2005	1002053	1	2.32	
90333824	1553	09/07/2005	4,950.00	10/07/2005	1002054	1	2.44	
90373372	1553	10/14/2005	-100.00	10/14/2005	1002054	1	(0.05)	
90333817	1553	09/07/2005	950.00	10/07/2005	1002055	1	0.47	
90333878	1553	09/07/2005	1,600.00	10/07/2005	1002056	1	0.79	
90373367	1553	10/14/2005	-800.00	10/14/2005	1002056	1	(0.39)	
90333818	1553	09/07/2005	10,965.00	10/07/2005	1002057	1	5.41	
90333819	1553	09/07/2005	2,422.50	10/07/2005	1002058	1	1.19	
90333820	1553	09/07/2005	11,750.00	10/07/2005	1002059	1	5.79	
90335030	1553	09/08/2005	13,300.00	10/08/2005	1002060		-	
90335035	1553	09/08/2005	9,690.00	10/08/2005	1002061		-	
90335038	1553	09/08/2005	20,400.00	10/08/2005	1002062		-	
90335031	1553	09/08/2005	2,850.00	10/08/2005	1002063		-	
90335036	1553	09/08/2005	21,500.00	10/08/2005	1002065		-	
90335037	1553	09/08/2005	3,950.00	10/08/2005	1002066		-	
90335033	1553	09/08/2005	10,965.00	10/08/2005	1002067		-	
90335034	1553	09/08/2005	14,100.00	10/08/2005	1002069		-	
90341070	1553	09/13/2005	12,350.00	10/13/2005	1002072		-	
90341088	1553	09/13/2005	13,395.00	10/13/2005	1002073		-	
90341093	1553	09/13/2005	10,200.00	10/13/2005	1002074		-	
90341073	1553	09/13/2005	2,850.00	10/13/2005	1002075		-	
90341074	1553	09/13/2005	2,350.00	10/13/2005	1002076		-	
90341089	1553	09/13/2005	17,200.00	10/13/2005	1002077		-	
90341080	1553	09/13/2005	10,965.00	10/13/2005	1002078		-	
90341081	1553	09/13/2005	11,750.00	10/13/2005	1002079		-	
90341071	1553	09/13/2005	12,350.00	10/13/2005	1002080		-	
90341094	1553	09/13/2005	30,600.00	10/13/2005	1002082		-	
90341075	1553	09/13/2005	3,800.00	10/13/2005	1002083		-	
90341076	1553	09/13/2005	2,350.00	10/13/2005	1002084		-	
90341092	1553	09/13/2005	12,900.00	10/13/2005	1002085		-	
90341090	1553	09/13/2005	14,100.00	10/13/2005	1002086		-	
90341091	1553	09/13/2005	18,800.00	10/13/2005	1002087		-	
90341097	1553	09/13/2005	28,200.00	10/13/2005	1002088		-	
90341098	1553	09/13/2005	4,700.00	10/13/2005	1002089		-	
90341082	1553	09/13/2005	10,965.00	10/13/2005	1002090		-	
90341083	1553	09/13/2005	2,422.50	10/13/2005	1002091		-	
90341084	1553	09/13/2005	14,100.00	10/13/2005	1002092		-	
90341072	1553	09/13/2005	12,350.00	10/13/2005	1002094		-	
90341079	1553	09/13/2005	800.00	10/13/2005	1002095		-	
90341095	1553	09/13/2005	20,400.00	10/13/2005	1002097		-	
90341077	1553	09/13/2005	2,850.00	10/13/2005	1002098		-	
90341078	1553	09/13/2005	2,350.00	10/13/2005	1002099		-	
90341096	1553	09/13/2005	4,950.00	10/13/2005	1002100		-	
90373371	1553	10/14/2005	-100.00	10/14/2005	1002100		-	
90341085	1553	09/13/2005	2,193.00	10/13/2005	1002101		-	
90341086	1553	09/13/2005	2,422.50	10/13/2005	1002102		-	
90341087	1553	09/13/2005	11,750.00	10/13/2005	1002103		-	
90341856	1553	09/14/2005	11,400.00	10/14/2005	1002104		-	
90341861	1553	09/14/2005	10,200.00	10/14/2005	1002106		-	
90341857	1553	09/14/2005	1,900.00	10/14/2005	1002107		-	
90341858	1553	09/14/2005	2,350.00	10/14/2005	1002108		-	
90341860	1553	09/14/2005	21,500.00	10/14/2005	1002109		-	
90341862	1553	09/14/2005	4,950.00	10/14/2005	1002110		-	
90373370	1553	10/14/2005	-100.00	10/14/2005	1002110		-	
90341859	1553	09/14/2005	14,100.00	10/14/2005	1002112		-	
90343034	1553	09/15/2005	20,400.00	10/15/2005	1002115		-	

AMD Statement of Account Delphi Automotive Systems, LLC #126						Late Charge	Annual Rate	18%
Invoice #	Reference	Inv Date	Amount Open	Due Date	SBI#	Days of Late	Interest Charge	
#126								
90343029	1553	09/15/2005	2,350.00	10/15/2005	1002116	-	-	-
90343031	1553	09/15/2005	3,800.00	10/15/2005	1002117	-	-	-
90343032	1553	09/15/2005	2,350.00	10/15/2005	1002118	-	-	-
90343033	1553	09/15/2005	950.00	10/15/2005	1002119	-	-	-
90343135	1553	09/15/2005	11,750.00	10/15/2005	1002120	-	-	-
90343030	1553	09/15/2005	4,700.00	10/15/2005	1002124	-	-	-
90344653	1553	09/16/2005	1,140.00	10/16/2005	1002073	-	-	-
90344654	1553	09/16/2005	7,267.50	10/16/2005	1002081	-	-	-
90344655	1553	09/16/2005	9,690.00	10/16/2005	1002096	-	-	-
90344656	1553	09/16/2005	7,267.50	10/16/2005	1002105	-	-	-
90344650	1553	09/16/2005	2,422.50	10/16/2005	1002111	-	-	-
90344657	1553	09/16/2005	9,690.00	10/16/2005	1002114	-	-	-
90344651	1553	09/16/2005	26,316.00	10/16/2005	1002123	-	-	-
90344543	1553	09/16/2005	12,350.00	10/16/2005	1002125	-	-	-
90344544	1553	09/16/2005	800.00	10/16/2005	1002126	-	-	-
90344549	1553	09/16/2005	20,400.00	10/16/2005	1002127	-	-	-
90344550	1553	09/16/2005	2,150.00	10/16/2005	1002128	-	-	-
90344548	1553	09/16/2005	3,950.00	10/16/2005	1002129	-	-	-
90344547	1553	09/16/2005	3,950.00	10/16/2005	1002130	-	-	-
90344551	1553	09/16/2005	9,700.00	10/16/2005	1002131	-	-	-
90344545	1553	09/16/2005	800.00	10/16/2005	1002132	-	-	-
90344546	1553	09/16/2005	11,750.00	10/16/2005	1002133	-	-	-
90344658	1553	09/16/2005	12,112.50	10/16/2005	1002134	-	-	-
90344800	1553	09/16/2005	26,316.00	10/16/2005	1002135	-	-	-
90344652	1553	09/16/2005	2,422.50	10/16/2005	1002136	-	-	-
90346841	1553	09/19/2005	13,300.00	10/19/2005	1002137	-	-	-
90346844	1553	09/19/2005	800.00	10/19/2005	1002138	-	-	-
90346846	1553	09/19/2005	9,690.00	10/19/2005	1002139	-	-	-
90346848	1553	09/19/2005	20,400.00	10/19/2005	1002140	-	-	-
90346842	1553	09/19/2005	2,850.00	10/19/2005	1002141	-	-	-
90346843	1553	09/19/2005	2,350.00	10/19/2005	1002142	-	-	-
90346847	1553	09/19/2005	3,950.00	10/19/2005	1002143	-	-	-
90346849	1553	09/19/2005	37,600.00	10/19/2005	1002144	-	-	-
90346845	1553	09/19/2005	14,100.00	10/19/2005	1002145	-	-	-
90349256	1553	09/21/2005	14,250.00	10/21/2005	1002032	-	-	-
90349257	1553	09/21/2005	2,422.50	10/21/2005	1002068	-	-	-
90349501	1553	09/21/2005	12,350.00	10/21/2005	1002113	-	-	-
90349258	1553	09/21/2005	8,550.00	10/21/2005	1002148	-	-	-
90349259	1553	09/21/2005	12,350.00	10/21/2005	1002150	-	-	-
90349260	1553	09/21/2005	7,050.00	10/21/2005	1002151	-	-	-
90349262	1553	09/21/2005	21,150.00	10/21/2005	1002152	-	-	-
90349263	1553	09/21/2005	3,950.00	10/21/2005	1002153	-	-	-
90349264	1553	09/21/2005	10,800.00	10/21/2005	1002154	-	-	-
90349265	1553	09/21/2005	9,700.00	10/21/2005	1002155	-	-	-
90349266	1553	09/21/2005	89,300.00	10/21/2005	1002156	-	-	-
90349261	1553	09/21/2005	28,200.00	10/21/2005	1002158	-	-	-
90349502	1553	09/21/2005	11,400.00	10/21/2005	1002163	-	-	-
90349505	1553	09/21/2005	10,200.00	10/21/2005	1002165	-	-	-
90349503	1553	09/21/2005	1,900.00	10/21/2005	1002166	-	-	-
90349504	1553	09/21/2005	16,450.00	10/21/2005	1002169	-	-	-
90350965	1553	09/22/2005	4,386.00	10/22/2005	1002123	-	-	-
90350966	1553	09/22/2005	6,579.00	10/22/2005	1002135	-	-	-
90351272	1553	09/22/2005	9,690.00	10/22/2005	1002149	-	-	-
90351270	1553	09/22/2005	2,422.50	10/22/2005	1002157	-	-	-
90351273	1553	09/22/2005	7,267.50	10/22/2005	1002164	-	-	-
90351271	1553	09/22/2005	2,422.50	10/22/2005	1002168	-	-	-
90351710	1553	09/22/2005	12,350.00	10/22/2005	1002170	-	-	-
90351713	1553	09/22/2005	9,690.00	10/22/2005	1002171	-	-	-
90351714	1553	09/22/2005	20,400.00	10/22/2005	1002172	-	-	-
90351711	1553	09/22/2005	2,850.00	10/22/2005	1002173	-	-	-
90351712	1553	09/22/2005	14,100.00	10/22/2005	1002174	-	-	-
90353398	1553	09/23/2005	11,400.00	10/23/2005	1002175	-	-	-
90353401	1553	09/23/2005	800.00	10/23/2005	1002176	-	-	-
90353404	1553	09/23/2005	14,535.00	10/23/2005	1002177	-	-	-
90353405	1553	09/23/2005	20,400.00	10/23/2005	1002178	-	-	-
90353399	1553	09/23/2005	4,750.00	10/23/2005	1002179	-	-	-
90353400	1553	09/23/2005	950.00	10/23/2005	1002180	-	-	-
90353403	1553	09/23/2005	11,750.00	10/23/2005	1002181	-	-	-
90353402	1553	09/23/2005	32,895.00	10/23/2005	1002182	-	-	-
90353747	1553	09/23/2005	40,800.00	10/23/2005	1002183	-	-	-
90353743	1553	09/23/2005	4,700.00	10/23/2005	1002184	-	-	-
90353744	1553	09/23/2005	11,750.00	10/23/2005	1002185	-	-	-
90353746	1553	09/23/2005	64,500.00	10/23/2005	1002186	-	-	-
90353745	1553	09/23/2005	65,800.00	10/23/2005	1002187	-	-	-
90356214	1553	09/26/2005	16,957.50	10/26/2005	1002190	-	-	-
90356828	1553	09/27/2005	15,200.00	10/27/2005	1002191	-	-	-
90356830	1553	09/27/2005	800.00	10/27/2005	1002192	-	-	-
90356832	1553	09/27/2005	9,690.00	10/27/2005	1002193	-	-	-
90356833	1553	09/27/2005	10,200.00	10/27/2005	1002194	-	-	-
90356829	1553	09/27/2005	1,900.00	10/27/2005	1002195	-	-	-
90356831	1553	09/27/2005	10,965.00	10/27/2005	1002196	-	-	-
90357648	1553	09/28/2005	12,350.00	10/28/2005	1002197	-	-	-
90357652	1553	09/28/2005	10,200.00	10/28/2005	1002199	-	-	-



AMD Statement of Account Delphi Automotive Systems, LLC #126						Late Charge Annual Rate		18%
Invoice #	Reference	Inv Date	Amount Open	Due Date	SBI#	Days of Late	Interest Charge	
#126								
90357653	1553	09/28/2005	4,850.00	10/28/2005	1002201		-	
90357650	1553	09/28/2005	950.00	10/28/2005	1002202		-	
90357651	1553	09/28/2005	10,965.00	10/28/2005	1002203		-	
90357745	1553	09/28/2005	1,282.50	10/28/2005	1002204		-	
90359641	1553	09/30/2005	11,400.00	10/30/2005	1002205		-	
90359645	1553	09/30/2005	800.00	10/30/2005	1002206		-	
90359647	1553	09/30/2005	20,400.00	10/30/2005	1002208		-	
90359642	1553	09/30/2005	2,350.00	10/30/2005	1002209		-	
90359643	1553	09/30/2005	4,750.00	10/30/2005	1002211		-	
90359644	1553	09/30/2005	950.00	10/30/2005	1002212		-	
90359646	1553	09/30/2005	10,965.00	10/30/2005	1002213		-	
90361404	1553	10/03/2005	12,350.00	11/02/2005	1002216		-	
90361409	1553	10/03/2005	20,400.00	11/02/2005	1002218		-	
90361405	1553	10/03/2005	2,850.00	11/02/2005	1002219		-	
90361406	1553	10/03/2005	950.00	11/02/2005	1002220		-	
90361407	1553	10/03/2005	10,965.00	11/02/2005	1002221		-	
90361408	1553	10/03/2005	14,100.00	11/02/2005	1002223		-	
90361649	1553	10/03/2005	12,350.00	11/02/2005	1002224		-	
90361654	1553	10/03/2005	800.00	11/02/2005	1002225		-	
90361658	1553	10/03/2005	10,200.00	11/02/2005	1002227		-	
90361650	1553	10/03/2005	16,450.00	11/02/2005	1002228		-	
90361651	1553	10/03/2005	3,800.00	11/02/2005	1002229		-	
90361652	1553	10/03/2005	2,350.00	11/02/2005	1002230		-	
90361653	1553	10/03/2005	950.00	11/02/2005	1002231		-	
90361655	1553	10/03/2005	1,600.00	11/02/2005	1002232		-	
90361656	1553	10/03/2005	10,965.00	11/02/2005	1002233		-	
90361657	1553	10/03/2005	14,100.00	11/02/2005	1002235		-	
90362479	1553	10/04/2005	10,450.00	11/03/2005	1002237		-	
90362486	1553	10/04/2005	30,600.00	11/03/2005	1002239		-	
90362480	1553	10/04/2005	4,750.00	11/03/2005	1002240		-	
90362485	1553	10/04/2005	8,600.00	11/03/2005	1002241		-	
90362481	1553	10/04/2005	950.00	11/03/2005	1002242		-	
90362482	1553	10/04/2005	4,800.00	11/03/2005	1002243		-	
90362483	1553	10/04/2005	13,158.00	11/03/2005	1002244		-	
90362484	1553	10/04/2005	7,050.00	11/03/2005	1002246		-	
90363671	1553	10/05/2005	9,690.00	11/04/2005	1002198		-	
90363668	1553	10/05/2005	1,140.00	11/04/2005	1002204		-	
90363669	1553	10/05/2005	2,422.50	11/04/2005	1002214		-	
90363735	1553	10/05/2005	9,690.00	11/04/2005	1002215		-	
90363736	1553	10/05/2005	7,267.50	11/04/2005	1002217		-	
90363670	1553	10/05/2005	2,422.50	11/04/2005	1002222		-	
90363737	1553	10/05/2005	9,690.00	11/04/2005	1002226		-	
90363733	1553	10/05/2005	2,422.50	11/04/2005	1002234		-	
90363738	1553	10/05/2005	9,690.00	11/04/2005	1002238		-	
90363734	1553	10/05/2005	4,845.00	11/04/2005	1002245		-	
90363739	1553	10/05/2005	9,500.00	11/04/2005	1002248		-	
90363741	1553	10/05/2005	2,422.50	11/04/2005	1002249		-	
90363742	1553	10/05/2005	21,500.00	11/04/2005	1002250		-	
90363740	1553	10/05/2005	1,600.00	11/04/2005	1002251		-	
90363743	1553	10/05/2005	4,700.00	11/04/2005	1002252		-	
90364683	1553	10/06/2005	12,350.00	11/05/2005	1002253		-	
90364685	1553	10/06/2005	9,690.00	11/05/2005	1002254		-	
90364687	1553	10/06/2005	10,200.00	11/05/2005	1002255		-	
90364684	1553	10/06/2005	13,158.00	11/05/2005	1002257		-	
90365739	1553	10/07/2005	11,400.00	11/06/2005	1002259		-	
90365741	1553	10/07/2005	800.00	11/06/2005	1002260		-	
90365744	1553	10/07/2005	16,957.50	11/06/2005	1002261		-	
90365746	1553	10/07/2005	10,200.00	11/06/2005	1002262		-	
90365740	1553	10/07/2005	4,700.00	11/06/2005	1002263		-	
90368845	1553	10/11/2005	13,300.00	11/10/2005	1002189		-	
90368849	1553	10/11/2005	25,850.00	11/10/2005	1002252		-	
90385747	1553	10/26/2005	1,800.00	11/25/2005	1002200		-	
Principal Amount			2,377,810.00				9,887.06	
Interest Charge								
Subtotal Claim #126			2,387,697.06					